



State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-1370 FAX (603) 271-1381



September 29, 2003

**CERTIFIED MAIL**  
**7099 3400 0002 9774 0337**  
**RETURN RECEIPT REQUESTED**

**LETTER OF DEFICIENCY**  
**No. WMD 03-29**

Midas Auto Service Experts  
2234 White Mountain Highway  
North Conway, New Hampshire 03860

Attn: Haig Zeytoonian, Owner

**Re: Midas Auto Service Experts**  
**North Conway, New Hampshire**  
**EPA ID No. NHD982202632**

Dear Mr. Zeytoonian:

On July 15, 2003, the Department of Environmental Services, Waste Management Division (DES) conducted an inspection of Midas Auto Service Experts (Midas). The purpose of the inspection was to determine Midas' compliance status relative to RSA Ch. 147-A and the New Hampshire Hazardous Waste Rules, Env-Wm 100-1100.

As a result of the inspection and review of the information provided to DES, the following deficiencies were documented:

**1 Env-Wm 502.01 – Hazardous Waste Determination**

At the time of the inspection, DES confirmed that Midas had not performed a hazardous waste determination for the waste fluorescent lamps generated at the facility. DES also verified that the waste lamps were routinely disposed of in the on-site dumpster.

Env-Wm 502.01 requires that all generators of waste determine if their waste is a hazardous waste. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules.

DES requests that Midas test a representative sample of the waste fluorescent lamps for the characteristic of toxicity as defined in Env-Wm 403.06. This analysis should include, at a minimum, RCRA metals, using the Toxicity Characteristic Leaching Procedure (TCLP) Method 1311 found in Test Methods for Evaluating Solid Wastes, SW-846. Please be advised that waste determinations may also be demonstrated by Midas using knowledge of the hazardous waste constituents or characteristics of the waste, based on the materials or processes used to generate the waste.

**Alternatively, Midas may elect to manage waste lamps as “universal waste” in accordance with Env-Wm 1100.** Enclosed please find the DES Environmental Fact Sheets #WMD-HW-7, “Universal Waste Lamps: Management Requirements for Handlers and Transporters”, as well as a DES “Fluorescent Lamp and Ballast Recycling Facility” list to aid you with the determinations.

Midas will need to provide to DES the results of the hazardous waste determination, along with any other supporting data, such as Material Safety Data Sheets (MSDS) and/or chemical analyses; or information indicating that the lamps are being handled as a universal waste in accordance with Env-Wm 1100.

**2 Env-Wm 504.02(e) Notification Requirements**

At the time of the inspection, according to DES notification records, Midas is owned by Michael McMahon and the facility’s name is McMahon Muffler Shop, Inc. However, as a result of the inspection DES confirmed that McMahon Muffler Shop, Inc. is now doing business as Midas and is owned by Haig Zeytoonian.

Env-Wm 504.02(e) requires that a generator shall notify DES in writing of any changes to the information required in Env-Wm 504.02(b), including company ownership and name, within 30 days of the effective date of the change.

DES requests that Midas submit a subsequent notification form (enclosed) that accurately reflects the change in company ownership and name.

**3 Env-Wm 807.06(b)(4) Used Oil Standards Container Labeling**

At the time of the inspection, Midas was storing one (1) 55-gallon container and one (1) 5-gallon container of used oil destined for recycling, which were not labeled with the words “Used Oil for Recycle.”

Env-Wm 807.06(b)(4) requires that generators of used oil destined for recycling label their containers and tanks with the words “Used Oil for Recycle” at all times during accumulation and storage.

DES requests that Midas label all containers and tanks of used oil destined for recycle with the words “Used Oil for Recycle” at all times during accumulation and storage.

**4. Env-Wm 807.06(b)(5) Used Oil Standards Closed Container**

At the time of the inspection, Midas was storing one (1) 5-gallon container of used oil destined for recycling, which was not closed.

Env-Wm 807.06(b)(5) requires that used oil be placed in containers or tanks that remain closed at all times, except to add or remove wastes.

DES requests that Midas ensure that all containers and tanks are kept closed at all times except to add or remove used oil.

5. Env-Wm 1114.04 - Labeling/Marking of Antifreeze

At the time of the inspection, two (2) 55-gallon containers of universal waste antifreeze were not marked with the words "Universal Waste – Antifreeze", "Waste Antifreeze", or "Used Antifreeze."

Env-Wm 1114.04 requires universal waste handlers to ensure all container(s) holding waste antifreeze to be clearly labeled or marked with any of the following: "Universal Waste – Antifreeze", "Waste Antifreeze", or "Used Antifreeze."

DES requests that Midas clearly label or mark container(s) holding waste antifreeze with any of the following: "Universal Waste – Antifreeze", "Waste Antifreeze", or "Used Antifreeze."

DES believes the cited deficiencies can be corrected and a report describing the corrective measures taken by Midas can be submitted within thirty (30) days of receipt of this letter. Supporting documentation that describes the measures taken to achieve compliance should be included with the report.

In the event compliance is not achieved within this period, DES may take further action against Midas, including issuing an order requiring that deficiencies be corrected, initiating an administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil penalties. In addition, DES personnel may re-inspect your facility at a later date to determine whether the facility has come into, and is maintaining, full compliance with the applicable rules. Fines may also be pursued for any or all violations observed during this or subsequent inspections of the facility.

The written report as requested above should be addressed as follows:

Kenneth W. Marschner, Administrator  
DES/WMD  
P.O. Box 95  
Concord, New Hampshire 03302-0095

Enclosed you will find a copy of the completed Hazardous Waste Generator Inspection Report which documents the compliance status of your facility at the time of the inspection. This report may also be of value to you for use in determining future compliance with the New Hampshire Hazardous Waste Rules.

The State of New Hampshire Hazardous Waste Rules, as well as much other useful information, can be obtained from DES's website at <http://www.des.state.nh.us/hwcs/>, or by contacting the Public Information Center at (603) 271-2975.


**DES**

It is the goal of DES to promote the prevention of pollution at the source as the preferred option for meeting established environmental quality goals. We strive to ensure that pollution prevention options are considered first, followed by recycling, treatment and disposal. I am requesting that the DES's Pollution Prevention Coordinator, Stephanie D'Agostino, contact you to discuss possibilities for waste minimization or source reduction at your facility. In the meantime, if you have immediate questions about pollution prevention, please feel free to contact her at 271-6398.

As a service to New Hampshire's hazardous waste generators, we maintain a Hazardous Waste Assistance Hotline which is available for you to contact our knowledgeable staff of hazardous waste inspectors. Our hazardous waste staff is available to answer your questions concerning the New Hampshire Hazardous Waste Rules and the compliance issues which affect your hazardous waste management program. The technical assistance available through the Hotline includes fact sheets that pertain to the management and recycling of specific wastes, summary sheets of specific sections of the Hazardous Waste Rules, copies of EPA and New Hampshire hazardous waste policy or regulatory interpretation letters that may benefit your operation, and networks with other state or federal agencies to answer your questions on a national level. The hotline is available Monday through Friday, 8:00 AM to 4:00 PM toll-free at (866) HAZ-WAST (in-state only) or at 271-2942.

Should you have any questions regarding this letter, please contact the lead inspector, Robert Bishop, or John J. Duclos, Supervisor of the Hazardous Waste Compliance Section, at 271-2942. Thank you for your cooperation.

Sincerely,

  
**COPY**  
Kenneth W. Marschner, Administrator  
Waste Management Programs  
Waste Management Division

cc: DB/RCRA/LOD/Archives  
Philip J. O'Brien, Ph.D., P.G., Director, WMD  
Gretchen Rule, Esq., Administrator, DES Legal Unit

E-mail: JJD/SD/SD/PM

Enclosure: Hazardous Waste Generator Inspection Report  
Fact Sheet #WMD-HW-7 "Universal Waste Lamps: Management Requirements for Handlers and Transporters"  
"Fluorescent Lamp and Ballast Recycling Facility" list  
Hazardous Waste Activity Notification Form